

January 14, 2009

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Scott T. Anderson, Esq.  
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Re: *In the Matter of Wright County and Craig Schulz,*  
*Certified Building Official*  
OAH Docket No. 3-1902-20003-2

Dear Counsel:

I write regarding Wright County's pending motion for a stay or dismissal of the administrative hearing. I understand from Mr. Anderson's email that arguments pertaining to issue III. A ("DOLI's Order Exceeded Statutory Authority") in the motion will be deferred to the cross motions for summary disposition that will be filed on February 20, 2009. After reviewing the issue identified as III.B ("DOLI's Order Resolved Issue of Law More Properly Decided by a Court"), I have concluded that this issue is inextricably related to the issue of the Department's authority to act as it did under the circumstances of this case. If the Department had enforcement authority, then it would be appropriate to proceed with this administrative proceeding; if the Department lacked authority, then the appropriate venue for resolving the dispute would be in the district court. Accordingly, I intend to defer decision of the issue regarding the Department's authority until submission of the cross motions for summary disposition. In that motion, the Department should address why it believes it has authority to take enforcement action against a county, as opposed to a person "required to have a license, registration, certificate, or permit," as provided in Minn. Stat. § 326B.082, subd. 1.

Sincerely,

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY

Administrative Law Judge  
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